

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:06CR20**

**UNITED STATES OF AMERICA**

**VS.**

**EARL SPENCER BOYCE, JR.**

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**ORDER**

**THIS MATTER** is before the Court on Defendant's motion pursuant to the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* ("FOIA") addressed to the Clerk of this Court. The motion is denied.

Defendant requests disclosure of and access to "all records, statements, and any other evidence that the federal goverment (sic) or U.S. attorney has in my motion of discovery of evidence. I was never granted access of any of the goverment's (sic) evidence against me in my case, and that's my right to have all this information." **Defendant's Motion, at 2.**

The FOIA directs agencies of the federal government to make certain information available to the public. Federal courts, however, are expressly

excluded from the definition of “agency” for purposes of FOIA disclosure requirements. **5 U.S.C. § 551(1)(B); *Gayle v. Johnson*, 275 F. App’x 211, 212 n.1 (4<sup>th</sup> Cir. 2008).**

Although “other evidence that the federal government or U.S. attorney has” may be subject to FOIA requirements in certain limited circumstances, such “evidence” is not in the custody or control of this Court. **See 5 U.S.C. § 552(b)(7).**

**IT IS, THEREFORE, ORDERED** that Defendant’s motion for disclosure of and access to certain materials used in his criminal prosecution from the Clerk of this Court under the Freedom of Information Act is hereby **DENIED**.

Signed: July 22, 2009

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

